



**STATE OF MISSOURI
DEPARTMENT OF ECONOMIC DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT (DWD)
INVITATION FOR BID**

IFB NO: 4193065703
TITLE: Business Retention Training
ISSUE DATE: August 29, 2006

REQ#:
BUYER: Nancy Able
PHONE NO.: (573) 751-2085
E-MAIL: nancy.able@ded.mo.gov

RETURN IFB NO LATER THAN: September 18, 2006 at 3:30 p.m. Central Standard Time

MAILING INSTRUCTIONS: Print or type **IFB Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Bids must be in DWD office (421 E. Dunklin Street) by the return date and time.

RETURN IFB TO:
DWD
421 E DUNKLIN
JEFFERSON CITY, MO 65101
Fax # (573) 751-2370

CONTRACT PERIOD: Date of Award through June 30, 2007

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

DWD
421 E DUNKLIN
JEFFERSON CITY, MO 65101

The bidder hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Invitation For Bid (Revised 02/10/06). The bidder further agrees that the language of this IFB shall govern in the event of a conflict with his/her bid. The bidder further agrees that upon receipt of an authorized purchase order from the Division of Workforce Development or when this IFB is countersigned by an authorized official of the State of Missouri, a binding contract shall exist between the bidder and the State of Missouri.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	
COMPANY NAME			
MAILING ADDRESS			
CITY, STATE, ZIP			
FEDERAL EMPLOYER ID NO.		SOCIAL SECURITY NO. IF FEDERAL EMPLOYER ID NO. NOT APPLICABLE	
PHONE NO.	FAX NO.		E-MAIL ADDRESS

NOTICE OF AWARD (STATE USE ONLY)

ACCEPTED BY STATE OF MISSOURI AS FOLLOWS:			
CONTRACT NO.		VENDOR NO.	
CONTRACT PERIOD			
BUYER		DATE	
DIRECTOR			

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This document constitutes a request for competitive bids for the provision of Business Retention Training as set forth herein.
- 1.1.2 Organization - This document, referred to as an Invitation For Bid (IFB), is divided into the following parts:
- 1) Introduction and General Information
 - 2) Contractual Requirements
 - 3) Bid Submission Information
 - 4) Pricing Pages
 - 5) Exhibits A & B
 - 6) Terms and Conditions

1.2 Background:

- 1.2.1 An important part of economic development is keeping jobs in the state. The Division of Workforce Development is implementing a Business Retention Program which will enhance local workforce and economic development professionals' efforts towards saving jobs. Establishing "Early Warning Networks" are an integral piece of a Business Retention Program, where local workforce, economic development, and other community representatives work together to identify at-risk companies and leverage resources to avert layoffs and closings.
- 1.2.2 The Business Retention Program assembles a group of local experts in the area of workforce, education and economic development, who work together as a Business Retention Team. The Team establishes an Early Warning Network through which members gather timely information, develop strategies and leverage resources to possibly avert layoffs and closures.
- 1.2.3 Through the Department of Economic Development's Skilled Workforce Initiative, Missouri is providing funds for local Business Retention Coordinators (BRCs) that will assemble and lead these local teams of workforce, education and economic development experts. The State of Missouri issued grants funded through the Workforce Investment Act to three local regions to fund a Business Retention Coordinator position that will lead a Business Retention Committee and help implement Early Warning Networks. These three regions are pilots and future grants will depend on their success.
- 1.2.4 In order to offer the pilot regions some assistance in implementing these grants, the Missouri Division of Workforce Development (DWD) is looking to make funds available for a successful bidder to provide training to selected workforce development system staff.
- 1.2.5 The successful bidder must prepare and present, for the Division of Workforce Development, a 1-2 day workshop for a group of approximately 25 individuals. The workshop will be held in Jefferson City, Missouri in a room provided by the DWD. The trainer will conduct an overview, discussion, and training on implementing a successful Business Retention Program with an emphasis on an Early Warning Network, specific to workforce development and how it interacts and coordinates with economic development. Experience and knowledge of economic development and retention strategies are required. Knowledge of the workforce development system and how it relates to business retention is helpful.

- 1.2.6 The bid estimate should include all anticipated costs to conduct a workshop, including travel, curriculum development, and handouts. In addition, it may require 8-16 hours of research by phone with staff to gather details and background information necessary for the training.
- 1.2.7 The DWD prefers bidders with prior experience in or knowledge of implementing business retention strategies.
- 1.2.8 Bidders must be able to conduct the workshop training sometime from October 16 to November 15, 2006 with October 16 to October 31, 2006 being the preferred time frame. Bidders shall submit a list of days within this time frame that they would be available.

2. PERFORMANCE REQUIREMENTS

2.1 General Requirements:

- 2.1.1 The contractor shall provide Business Retention Training services for the Division of Workforce Development (hereinafter referred to as the state agency) in accordance with the provisions and requirements stated herein.
- 2.1.2 At a minimum, the contractor shall provide the following:
 - a. Training Services,
 - b. Training Materials, and
 - c. Follow-up Services –Field follow-up questions from conference attendees for up to three (3) months after the training session.
- 2.1.3 The contractor shall provide the required services in between October 16, 2006 and November 15, 2006. The DWD preferred the services be provided between October 16 and October 31. At the time of award, the state agency shall specify which date services shall be required, based on contractor availability.
- 2.1.4 The state agency estimates, but cannot guarantee, that approximately 25 people will be in attendance at the training.

2.2 Payment and Invoicing Requirements:

- 2.2.1 Immediately upon award of the contract, the contractor needs to submit or must have already submitted a properly completed State Vendor ACH/EFT Application, since the State of Missouri intends to make contract payments through Electronic Funds Transfer.
 - a. If not already submitted, the contractor needs to obtain a copy of the State Vendor ACH/EFT Application and completion instructions from the Internet at:

<http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>
 - b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- 2.2.2 The contractor shall maintain an account for agreed-upon state agency charges and shall submit an itemized invoice in triplicate for prior approved charges to the state agency at the address stated on page one.

2.2.3 The state agency shall pay for training services as specified below:

- a. The state agency shall pay the firm, fixed price specified on the Pricing Page which shall be the all inclusive cost for 25 participants. The cost shall include training services, training materials, follow-up services, airfare/travel costs, and any other associated costs.

2.2.4 The contractor shall only invoice for those services for which the contractor quoted a price. The contractor must not invoice and the state agency shall not pay for any service, including miscellaneous services, for which a price was not quoted.

2.2.5 Other than the payments specified above, the state agency shall not make any other payments or reimbursements to the contractor for any reason whatsoever, including miscellaneous services, etc.

2.3 General Contractual Requirements:

2.3.1 Contract: A binding contract shall consist of: (1) the IFB, amendments thereto, (2) the contractor's bid and (3) the Division of Workforce Development's acceptance of the bid by "notice of award" or by "purchase order". All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.

- a. The notice of award does not constitute a directive to proceed. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized purchase order.
- b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.

2.3.2 Contract Period: The original contract period shall be as stated in the Invitation For Bid (IFB). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period.

2.3.3 Contractor Liability: The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

- a. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- b. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

2.3.4 Subcontractors: Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all

contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein. The contractor must obtain the approval of the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.

- 2.3.5 Termination: The Division Workforce Development reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.
- 2.3.6 Contractor Status: The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.
- 2.3.7 Coordination: The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Workforce Development throughout the effective period of the contract.
- 2.3.8 Property of State: All reports, documentation, and material developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the State of Missouri. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.

3. BID SUBMISSION INFORMATION

3.1 Submission of Bid:

3.1.1 ELECTRONIC SUBMISSION OF BIDS THROUGH THE ON-LINE BIDDING WEB SITE IS NOT AVAILABLE FOR THIS IFB.

3.1.2 When submitting a bid, the bidder should include 3 (three) additional copies along with their original bid. The front cover of the original bid should be labeled “original” and the front cover of all copies should be labeled “copy”.

a. Imaging Ready – In addition, all bids are scanned into the Division of Workforce Development imaging system after a contract is executed, or all bids are rejected.

1) The scanned information will be able to be viewed through the Internet from the Public Record Search system. Therefore, the bidder is advised not to include personal identifying information such as social security numbers in the bid.

2) In preparing a bid, the bidder should be mindful of document preparation efforts for imaging purposes and storage capacity that will be required to image the bids. Glue bound materials should not be used.

3.1.3 To facilitate the evaluation process, the bidder is encouraged to organize their bid into distinctive sections that correspond with the individual evaluation categories described herein. The bidder is cautioned that it is the bidder’s sole responsibility to submit information related to the evaluation categories and that the State of Missouri is under no obligation to solicit such information if it is not included with the bid. The bidder’s failure to submit such information may cause an adverse impact on the evaluation of the bid

a. Each distinctive section should be titled with each individual evaluation category and all material related to that category should be included therein.

b. The bid should be page numbered.

c. The signed page one from the original IFB and all signed amendments should be placed at the beginning of the bid.

3.1.4 The bidder should complete Exhibit C, Miscellaneous Information, to document: (1) if the bidder qualifies as either a nonprofit organization for the blind or a sheltered workshop, or if the bidder is proposing to include products and/or services manufactured, produced, or assembled by such an organization, and (2) whether the bidder and/or any of the owners of the bidder’s organization are currently an employee of the State of Missouri, a member of the General Assembly, or a statewide elected official, and (3) if any products and/or services offered under the IFB are being manufactured or performed at sites outside the continental United States.

3.1.5 Bidder’s Contacts:

a. Bidders and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the IFB, the evaluation, etc. to the buyer of record indicated on the first page of this IFB. The buyer may be contacted via e-mail or phone as shown on the first page, or via facsimile to 573-526-9817. The bidder may contact the Office of Equal Opportunity regarding MBE/WBE certification or subcontracting with MBE/WBE companies at (877) 259-2963 or (573) 751-8130 or by fax at (573) 522-8078.

b. Bidders and their agents may not contact any other state employee regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds

for suspension and/or exclusion from specific procurements. Bidders and their agents who have questions regarding this matter should contact the buyer of record.

- c. Bidders are advised that any questions received less than ten calendar days prior to the IFB opening date may not be answered.

3.2 Evaluation and Award Process:

- 3.2.1 After determining that a bid satisfies the mandatory requirements stated in the Invitation For Bid, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the bid in accordance with the evaluation criteria stated below:

- a. Cost50 points
- b. Experience, Reliability, and Expertise50 points

- 3.2.2 After an initial screening process, a question and answer conference or interview may be conducted with the bidder, if deemed necessary by the Division of Workforce Development. In addition, the bidder may be asked to make an oral presentation of their bid during the conference. Attendance cost at the conference shall be at the bidder's expense. All arrangements and scheduling shall be coordinated by the Division of Workforce Development,

3.3 Evaluation of Cost:

- 3.3.1 The objective evaluation of cost shall be based upon the cost of providing training for 25 people as specified on the pricing page. Cost points shall be calculated using the following formula:

$$\frac{\text{Lowest Responsive Bidder's Price}}{\text{Compared Bidder's Price}} \times 50 = \text{Cost evaluation points}$$

3.4 Evaluation of Bidder's Experience, Reliability, and Expertise of Personnel:

- 3.4.1 Experience and reliability of the bidder's organization are considered subjectively in the evaluation process. Therefore, the bidder is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this IFB.
- 3.4.2 The bidder should complete Exhibit A with information related to previous and current services/contracts performed by the bidder's organization and any proposed subcontractors which are similar to the requirements of this IFB. The bidder should include a list of and previous seminars and workshops conducted which are similar to what is requested in this IFB. In addition, the bidder should obtain the signature of the contract person referenced on the Exhibit verifying that information presented is accurate. The contact person's signature also represents that the contact person is willing and will be available for contact by the State of Missouri in order to discuss the services performed by the bidder for the contact person's company.
- 3.4.3 The qualifications of the staff proposed by the bidder to perform the requirements of this IFB, whether from the bidder's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the bidder should submit detailed information related to the experience and qualifications, including education and training, of proposed staff.
 - a. The bidder may utilize Exhibit B for summarizing staff information and should submit detailed resumes for proposed key staff.

- 1) Resumes should be structured to emphasize relevant qualifications and experience of the staff in successfully completing contracts/performing services of a similar size and scope to the requirements of this IFB.
- 2) Information submitted should clearly identify previous experience in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and how the person's involvement in that project will relate to the person's ability to contribute to the State of Missouri.

3.4.4 The bidder should provide an organizational chart showing the staffing and lines of authority for the key staff to be used.

- a. The organizational chart should outline the team proposed for this project and the relationship of those team members to each other and to the management structure of the bidder's organization.

3.4.5 Business Compliance - The bidder must be in compliance with the laws regarding conducting business in the State of Missouri. The bidder certifies by signing the signature page of this original document and any amendment signature page(s) that the bidder and any proposed subcontractors are presently in compliance with such laws. The bidder shall provide documentation of compliance upon request by the Division of Workforce Development. The compliance to conduct business in the state shall include, but not necessarily be limited to:

- a. Registration of business name (if applicable)
- b. Certificate of authority to transact business/certificate of good standing (if applicable)
- c. Taxes (e.g., city/county/state/federal)
- d. State and local certifications (e.g., professions/occupations/activities)
- e. Licenses and permits (e.g., city/county license, sales permits)
- f. Insurance (e.g., worker's compensation/unemployment compensation)

4. PRICING PAGE

Training Costs: The contractor shall provide a guaranteed not-to-exceed and all inclusive price for 25 people and all associated costs. If there are additional costs for training additional attendees, please indicate that cost.

Training Fee for 25 \$ _____

Cost per person for additional attendees. \$ _____

AVAILABLE DATES: The contractor should indicate the available dates:

_____, 20__

_____, 20__

_____, 20__

EXHIBIT A**PRIOR EXPERIENCE OF BIDDER**

The bidder should copy and complete this form for each reference being submitted as demonstration of the bidder and subcontractor's prior experience. In addition, the bidder is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

Bidder/Subcontractor Name:	
Reference Information (Prior Services Performed For:)	
Name of Reference Company:	
Address of Reference Company:	
Reference Contact Person Name:	
Contact Person Phone #	
Contact Person e-mail address:	
Dates of Prior Services:	
Dollar Value of Prior Services	
Description of Prior Services Performed	

EXHIBIT B**EXPERTISE OF PERSONNEL**

(copy and complete this table for each key person assigned to the project)

Title of Position: _____	
Name of Person:	
Educational Degree (s): include college or university, major, and dates	
License(s)/Certification(s), #(s), expiration date(s):	
Specialized Training Completed. Include dates and documentation of completion:	
# of years experience in area of service proposed to provide:	
Describe person's relationship to bidder. If employee, # of years. If subcontractor, describe other/past working relationships	
Previous employer(s), positions, dates	

EXHIBIT C**MISCELLANEOUS INFORMATION****Organizations for the Blind or Sheltered Workshop**

If the bidder qualifies as either a nonprofit organization for the blind or a sheltered workshop, or if the bidder is proposing to include products and/or services manufactured, produced, or assembled by such an organization, the bidder should identify the name of the organization in the space below and should attach all supporting documentation, as referenced elsewhere herein.

Name & Address of Organization for Blind/Sheltered Workshop:	_____

Outside United States

If any products and/or services offered under this IFB are being manufactured or performed at sites outside the continental United States, the bidder MUST disclose such fact and provide details in the space below or on an attached page.

Are products and/or services being manufactured or performed at sites outside the continental United States?	Yes _____	No _____
Describe and provide details:		

Employee Bidding/Conflict of Interest

Bidders who are employees of the State of Missouri, a member of the General Assembly or a statewide elected official must comply with Sections 105.450 to 105.458 RSMo regarding conflict of interest. If the bidder and/or any of the owners of the bidder's organization are currently an employee of the State of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information.

Name of State Employee, General Assembly Member, or Statewide Elected Official:	
In what office/agency are they employed?	
Employment Title:	
Percentage of ownership interest in bidder's organization:	_____ %

**STATE OF MISSOURI
DIVISION OF WORKFORCE DEVELOPMENT
TERMS AND CONDITIONS -- INVITATION FOR BID**

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in an Invitation for Bid (IFB) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Workforce Development (DWD)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an IFB or to a contract.
- c. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the IFB for the receipt of bids.
- e. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
- f. **Buyer** means the procurement staff member of the DWD. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful bidder as a result of an IFB and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an IFB for the bidder to complete and submit with the bid prior to the specified opening date and time.
- j. **Invitation for Bid (IFB)** means the solicitation document issued by the DWD to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
- m. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the IFB. The pricing pages must be completed and submitted by the bidder with the bid prior to the specified bid opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DWD.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DWD.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the IFB or resulting contract shall be in the Circuit Court of Cole County, Missouri.

3. OPEN COMPETITION/INVITATION FOR BID DOCUMENT

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the DWD if any language, specifications or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the DWD, unless the IFB specifically refers the bidder to another contact. Such communication should be received at least ten calendar days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than ten calendar days prior to the IFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the DWD in the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DWD monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

4. PREPARATION OF BIDS

- a. Bidders **must** examine the entire IFB carefully. Failure to do so shall be at bidder's risk.

- b. Unless otherwise specifically stated in the IFB, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the IFB, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to bid an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the IFB.
- e. In the event that the bidder is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an IFB, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DWD and the bidder, if such bidder is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the IFB. Any such bidder needs to include in the bid, a complete list of statutory references and citations for each provision of the IFB which is affected by this paragraph.
- f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the IFB clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the IFB.
- h. Prices bid shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, prices shall be firm for the specified contract period.
- i. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their bid in order to be considered for award.

5. SUBMISSION OF BIDS

- a. Delivered bids must be sealed in an envelope or container, and received in the DWD office located at 421 E. Dunklin Street in Jefferson City, MO no later than the exact opening time and date specified in the IFB. All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the IFB, and (3) be priced as required. Hard copy bids may be mailed to the DWD post office box address. However, it shall be the responsibility of the bidder to ensure their bid is in the DWD office (address listed above) no later than the exact opening time and date specified in the IFB.
- b. The sealed envelope or container containing a bid should be clearly marked on the outside with (1) the official IFB number and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid which has been delivered to the DWD office, may be modified by signed, written notice which has been received by the DWD prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
- d. A bid which has been delivered to the DWD office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DWD prior to the official opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, e-mail, or telegraphic requests to withdraw a bid shall not be honored.
- e. Bidders delivering a hard copy bid to DWD must sign and return the IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all IFB terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.

6. BID OPENING

- a. Bids will not be considered public record until bid is awarded. The DWD will not provide prices or other bid information via the telephone.
- b. Bids which are not received in the DWD office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late bids may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. PREFERENCES

- a. In the evaluation of bids, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed by the DWD to be in the best interest of the State of Missouri.

- c. The bidder is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the IFB, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the IFB and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all bidders fail to meet the same mandatory requirement in an IFB, DWD reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the DWD reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The DWD reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, DWD may negotiate for the required supplies.
- g. When evaluating a bid, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
- i. Any award of a contract shall be made by notification from the DWD to the successful bidder. The DWD reserves the right to make awards by item, group of items, or on an all or none basis. The grouping of items awarded shall be determined by DWD based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- j. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to Section 610.021 RSMo following the official opening of bids.
- k. Bidders who include an e-mail address with their bid will be notified of the award results via e-mail.
- l. The DWD reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- m. Any bid award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- n. The final determination of contract award(s) shall be made by DWD.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the IFB, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) DWD's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DWD or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DWD.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the IFB.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in Section 34.055 RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DWD, (2) be fit and sufficient for the purpose expressed in the IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DWD may cancel the contract. At its sole discretion, the DWD may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DWD within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DWD will issue a notice of cancellation terminating the contract immediately.
- c. If the DWD cancels the contract for breach, the DWD reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DWD deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DWD immediately.
- b. Upon learning of any such actions, the DWD reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DWD shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DWD until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore bidder's failure to maintain compliance with chapter 144, RSMo may eliminate their bid from consideration for award.

23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.